



Linvatec and Bonutti Skeletal Innovations, LLC (“Bonutti”). *See* Dkt. No. 1 at 5.

Consequently, after confirming that the parties had reached an impasse, Linvatec filed its Motion to Compel on December 20, 2013.

3. Acacia has not yet filed a response to Linvatec’s Motion to Compel. The parties jointly stipulated to a 14-day extension for Acacia’s response with a new due date of January 10, 2014. *See* Dkt. No. 2.

4. On December 30th, 2013 the Court ordered that this matter be heard on January 8, 2014 at 2:00 PM. *See* Dkt. No. 3.

5. On January 3, 2014 counsel for Acacia contacted counsel for Linvatec and requested an opportunity to meet and confer regarding the motion to compel and upcoming hearing. Acacia’s counsel represented that the issues could be resolved and the need for the hearing obviated. *See* Exhibit A.

6. On January 5, 2014 Linvatec’s counsel met and conferred with counsel for Acacia as well as members of Acacia’s management. Acacia agreed to provide responses or representations that would address each of Linvatec’s requests. Acacia confirmed that that any non-privileged, responsive documents for Linvatec’s Requests Nos. 4, 6, and 26 would be produced through Bonutti. Further, Acacia represented to Linvatec that for Linvatec’s Requests Nos. 8 and 16, there are no responsive documents concerning patents in the fields of orthopedics or sports medicine, and for Requests Nos. 22-24, that any and all responsive documents are privileged and/or protected as work product. *See* Exhibit B.

7. On January 6, 2013, Acacia’s counsel and Bonutti’s counsel confirmed that neither Acacia nor Bonutti, respectively, will rely on any patent license or agreements outside the fields of orthopedics and sports medicine in the above-identified actions.

8. Based on the representations made by Acacia and Bonutti Skeletal, Linvatec agrees to withdraw its Motion To Compel without prejudice to re-file if Acacia fails to produce the requested documents through its subsidiary, Bonutti Skeletal.

WHEREFORE, based on the foregoing, Linvatec hereby withdraws the Motion to Compel and respectfully files this notice of withdrawal of the Motion To Compel without prejudice.

Dated this 6th day of January, 2014.

Respectfully submitted,

/s/ S. Giri Pathmanaban

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on January 6th, 2014, I caused the foregoing document to be served by overnight mail delivery by Fed-Ex:

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